

Appl. No. 09/696,538
Amdt. dated June 16, 2004
Reply to Office Action of December 16, 2004

PATENT

REMARKS/ARGUMENTS

Claims 1-9 are pending.

Claims 1-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mosler et al. (U.S. Patent No. 6,304,858) in view of Rebane (U.S. Patent No. 6,078,904). This rejection is respectfully traversed and reconsideration is respectfully requested.

As the Examiner is aware of, to establish a prima facie case of obviousness, three basic criteria must be met. First, the Examiner must identify prior art declaring all the salient elements recited in the claims. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Third, there must be a reasonable expectation that once combined, the elements will work as expected. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. In Re Vaeck, 947 F.2d 488, 20 USPQ 2d 1438 (Fed. Cir. 1991).

As will become apparent herein, it is respectfully submitted that all of the elements recited in Applicant's claims are not taught or even suggested in Mosler or Rebane. Specifically, neither of these references discloses a method of operating a simulated trading system. Additionally, neither of the references discloses setting up an account representing a predefined portfolio of non-zero values for each of a plurality of participants. Furthermore, neither of the references discloses awarding each participant an amount that is a function of their respective portfolio's performance over an investment period. Therefore, even when the disclosures of the cited references are combined, one skilled in the art does not arrive at Applicant's invention because key elements of the claimed invention are missing.

In the rejection of claim 1, the Examiner indicates that Mosler does not explicitly disclose awarding each participant an amount that is a function of their portfolio's performance over investment. However, the Examiner contends that Rebane discloses such a step. The Examiner relies on col. 8, lines 6-36 and col. 14, lines 1-2 of Rebane. However, it is respectfully submitted that the Examiner is mistaken.

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Col. 8, lines 6-36 of Rebane is directed to describing how analysis and computations used by Rebane are embodied in a software product for controlling and configuring a computer to receive data descriptive of various investments and their risk characteristics, to interactively determine an investor's risk tolerance function, to allocate investment assets to an investment portfolio, to compute the probability density function of the portfolio's performance with respect to the investor's assets, and to compute and maximize the expected value of the probability density function of the investor's probability preferences. Additionally, Rebane goes on to indicate his invention may also be used as a monetary risk management tool to determine asset allocation among sectors and also to select among candidate projects in a corporate planning environment. Finally, in lines 25-36, Rebane discusses user interface features that graphically capture and represent the investment allocation of the investment assets, along with useful information describing portfolio performance. The user interface graphically displays for each investment in the portfolio of the allocation of the investment assets to the selected securities in terms of both monetary and percentage allocations, along with user definable upper and lower bounds for the allocation. Rebane also discloses there is also displayed a graphical representation of the expected return of the portfolio given the investment allocation, preferably shown with a confidence interval. At col. 14, lines 1-2 merely disclose "interrogate predicted portfolio performance through editing portfolio return confidence intervals." Thus, it is apparent that nowhere in the sections relied upon by the Examiner does Rebane disclose "awarding each participant an amount that is a function of their respective portfolio's performance over an investment period." Indeed, Rebane discloses nothing about awarding any participants anything.

It should be noted that Mosler et al. is directed to a method, system, computer program product, and data structure for trading in which a standardized contract is traded. Mosler et al. is primarily interested in interest rate swaps and the use of interest rate swap curves. On the other hand, Rebane is directed to a computer system and method for optimally allocating investment funds of an investor in a portfolio having a plurality of investments. Rebane, thus, works with risk tolerance and risk allocation. Nowhere in either reference is it mentioned or even suggested that a simulated trading system be operated and that accounts representing a

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predefined portfolio of non-zero value be set up for each of a plurality of participants. Thus, neither reference could possibly disclose or even suggest, or have a motivation, to award participants an amount that is a function of their respective portfolio's performance over an investment. Mosler and Rebane are concerned with real investments and trades and thus, any monetary "awards" are actually earned (or lost) by the participants with the participants' own money. Thus, they are not "awards."

Applicants have amended claim 1 to make it clear that the accounts of each participant merely represent a predefined portfolio of non-zero values as opposed to being an account that contains actual money belonging to the participants. This is due to the fact, as recited in the preamble, that claim 1 is directed to a method of operating a simulated trading system.

Accordingly, it is quite clear that, based upon the above, neither Mosler nor Rebane, either alone or in combination, teach, disclose or even suggest a method as recited in claim 1 and therefore, it is respectfully submitted that claim 1 is allowable.

Claims 2-9 depend, either directly or indirectly, on claim 1 and therefore, they are allowable for at least the reasons claim 1 is allowable.

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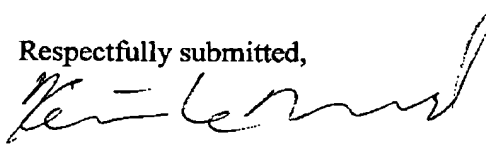
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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